

Exhibit “H”

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

3

3 DELAGE LANDEN FINANCIAL SERVICES,)
4 INC.,)
4)
5 PLAINTIFF,)
5)
6 TOSHIBA AMERICA MEDICAL SYSTEMS,)
6 INC.,)
6)
7 PLAINTIFF/INTERVENOR,)
7)
8)
8 VS.) 2:02CV2810
9)) HON. RONALD BUCKWALTER
9)
10 DESOTO DIAGNOSTIC IMAGING, LLC,)
10 RANDON J. CARVEL, LYNN T. CARVEL,)
11 DELTA RADIOLOGY, PC, AND ZOBAR)
11 PROPERTIES, LLC,)
12)
12 DEFENDANTS/COUNTER-CLT.)
13

14

15 VIDEOTAPED DEPOSITION
16 OF
17 BRIAN GIBBS

18 FEBRUARY 2, 2004

23 ALPHA REPORTING CORPORATION

24 KORIAN NEAL, RPR, CCR

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25 Memphis, Tennessee 38103

25 (901) 523-8974

1 were there, do you remember experiencing any technical
2 problems with the machine?

3 A. Not that I recall. No.

4 Q. Okay. To the best of your knowledge, did it
5 operate sufficiently?

6 A. Yes.

7 Q. Did it produce diagnostic images?

8 A. Yes.

9 Q. How did those images compare to images that
10 you've seen coming off other CT machines that you've
11 worked on?

12 A. I felt they were comparable to other vendors,
13 other equipment.

14 Q. Did you ever complain to Dr. Carvel or anyone
15 at Desoto about the CT?

16 A. Yes.

17 Q. And what did you complain about?

18 A. We would experience excessive cooling time
19 with the scanner in between scans due to the size of the
20 tube on the scanner, x-ray tube.

21 Q. Can you explain what you're talking about?

22 A. The x-ray tube would heat up in between scans
23 on the patient and would require it maybe as much as
24 three to five-minute wait time to let the tubes -- the
25 tube to cool down to be able to scan a patient again.

1 that again?

2 A. I would have to put in a service call or call
3 the sales guy, usually, which was Dave Steiff at the
4 time and bring the issue to his concern, you know.

5 Q. (BY MS. PECK) Now, is that something that
6 can be fixed?

7 A. Not without upgrading the whole scanner or
8 x-ray tube.

9 Q. How did your experience with the CT machine at
10 Desoto compare to your experience with CT machines at
11 other sites that you have worked on?

12 A. It was comparable as far as the scan quality.
13 But the excessive tube heating would require a lot more
14 time for the patient to lie down on the table for the
15 scan, and you would also, you know, lose some of your
16 contrast enhancements during the CT scan.

17 Q. And is that a function -- was that a function
18 of the type of procedures that you were performing or a
19 function of the machine?

20 MR. TATE: Object to the form of the
21 question.

22 A. I'm sorry.

23 Q. (BY MS. PECK) When you said you were
24 losing contrast, is what when you're doing a study
25 with contrast?

1 Q. Do you recall how those images compared to
2 images that you've seen coming off other x-ray machines
3 that you've worked on?

4 A. Comparable.

5 Q. Did you ever complain to Dr. Carvel or anyone
6 at Desoto about the x-ray machine?

7 A. Not that I recall.

8 Q. Did you ever hear Dr. Carvel or anyone at
9 Desoto complain about the x-ray machine?

10 A. Not that I recall. No.

11 Q. Did you ever hear Dr. Carvel or anyone at
12 Desoto ever complain about the CT machine?

13 A. Not that I recall other than the issue I
14 brought up earlier about the tube calling.

15 Q. And who did you hear them complain to?

16 A. Either to me or to Paul King.

17 Q. And what type of comments were made?

18 A. That we needed to get something done about it
19 to correct the problem, usually.

20 Q. How did your overall experience with the
21 Toshiba x-ray machine compare to your experience with
22 other x-ray machines?

23 A. It was comparable.

24 Q. Are you aware that after you left Desoto, that
25 Desoto deinstalled the x-ray machine and returned it to

1 frequent or infrequent, if that makes sense.

2 Q. How many patients on average would you scan a
3 day during the four months that you were there -- that
4 Desoto would scan a day?

5 A. MRI scans?

6 Q. MRI scans.

7 A. It could average anywhere from 3 on a low day
8 to 15 to 20 on a busy day, if I recall right.

9 Q. Now, in your experience, are -- well, let me
10 ask you about the problems that you said you were having
11 with the CT spine coil. Do you remember what that
12 problem was?

13 A. I don't recall a specific problem, but I do
14 recall attempts to correct the problem, whatever we were
15 having at the time. We had, I know, a different CTL
16 spine coil shipped in each day, it seemed like, for that
17 whole week we tried correcting the problem.

18 Q. Okay. Do you recall if the problem was
19 corrected?

20 A. It was after a week's time or better, if I
21 recall.

22 Q. Now, how did the images that were produced on
23 that Desoto -- the Toshiba MRI compare to the images
24 produced on other MRIs that you've worked on?

25 A. I would say they were comparable minus the

1 artifacts and the problems that we experienced.

2 Q. Okay.

3 A. When I say comparable -- I'm sorry -- they
4 compare to most other 1.5 Tesla MRI machines.

5 Q. Okay.

6 MR. TATE: Minus -- make sure I'm
7 clear -- the problems you've mentioned? I'm not --
8 I'm just trying to make sure I'm clear.

9 MS. PECK: You're not asking him the
10 questions right now. This is my deposition.

11 MR. TATE: No. I'm trying to --

12 MS. PECK: You can ask him later.

13 MR. TATE: I'm trying to make sure that
14 he is clear on what he's saying.

15 MS. PECK: You can ask him questions when
16 I'm done.

17 MR. TATE: Because he came back and said
18 he wanted to clear it up. So I'm trying to clear for
19 the record so it's not the bits and pieces of the
20 testimony is not taken out of context. So I want to
21 make sure it's clear.

22 You're saying it's comparable --

23 MS. PECK: Kyle -- you don't have to
24 answer his questions. He has the right to ask you
25 questions when I'm done asking --

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1 A. Just from my experience and dealing with them,
2 I felt that the guys that worked on the CT were capable
3 of, you know, pinpointing or finding out the problems
4 most of the time.

5 Q. (BY MS. PECK) Okay. Do you remember the
6 other service engineers that worked on the MR?

7 A. As I said earlier, I remember a Ray and a Roy.

8 Q. Okay. Roy Johnson and Roy Riskosky?

9 A. That's them.

10 Q. And did you believe that they were good
11 service engineers?

12 A. I felt they tried really hard. Yes.

13 Q. Were they responsive?

14 A. Most of the time, yes.

15 Q. How did they compare to other service
16 engineers that you've dealt with on MRIs?

17 MR. TATE: Objection. Vague, ambiguous.

18 Q. (BY MS. PECK) Have you dealt with other
19 Service engineers for other companies in the course
20 of being an MRI technologist?

21 A. I have dealt with GE service engineers for MRI
22 and Seemens service engineers. And most of the -- those
23 guys with the other vendors were able usually to
24 adequately fix the problem. I mean, the Toshiba guys, I
25 can't say they didn't try. I mean, they did -- they did